



# COMMONWEALTH of VIRGINIA

## CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

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January 9, 2002

Mr. John Hudgins  
Department of Environmental and Development Services  
P.O. Box 532  
Yorktown, VA 23690-0532

Re: Theatre Road Development

Dear Mr. Hudgins:

This letter is in response to your letter dated December 28, 2001 regarding the Theatre Road Development in York County. After discussing the situation with Mr. Joe Sisler on December 17, 2001 and reviewing your latest letter, the Department recognizes that you have already granted project approval and therefore the County believes that it would be inappropriate to designate a Resource Protection Area (RPA) on the Theatre Road property this late in the process. However, the Department continues to maintain that the intent of the field verification language [§24.1-372(f) of the York County Zoning Ordinance and §9VAC10-20-110(B) of the Regulations] has always been to determine the actual extent of RPA features on the ground, whether this means modifying (enlarging or reducing) the size of an existing RPA feature or adding newly discovered RPA features to the existing maps. Until the recent review of the Theatre Road project, the Department was unaware of the County's long-standing interpretation of the field delineation requirement. If we had known about the County's interpretation of this section, we most certainly would have addressed it sooner.

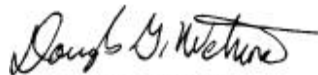
Because the County's ordinance already contains a provision for performing site-specific field delineation of RPA features, the County should immediately revise their administrative procedures to ensure that all RPA features identified in the field are given the protection required under the Bay Act and Regulations. Therefore, from this point forward, any field identified RPA feature must be protected under the County's local Bay Act program, regardless of its designation on the USGS quads or its location with respect to other RPA features mapped in the

County. In the future, please consider contacting us if there is any confusion on what constitutes an RPA feature.

In response to the concerns about making field determinations, we are currently working on producing guidance to assist localities in identifying water bodies with perennial flow. Please contact Catherine Harold in our office at 1-800-243-7229 if you would like more information about this guidance project. As always, members of our staff are available to assist County staff with their field delineations.

I certainly hope this clears up any confusion about the procedures for the treatment of field identified RPA features. If you have any additional questions or concerns, please do not hesitate to contact me at 1-800-243-7229.

Sincerely,



Douglas G. Wetmore  
Principal Environmental Planner

Enclosure

Cc: Sheri Kattan, *DEQ*  
Shawn Smith  
Martha Little  
Catherine Harold  
Joseph Sisler, *Local Program Coordinator*